

Appl. No. 10/090,600
Atty. Docket No. 8878L
Amdt. dated 11/11/2003
Reply to Office Action of 10/23/2003
Customer No. 27752

REMARKS

Restriction Requirement

Restriction is required between the following groups of claims:

I: Claims 1-9, 14 and 15 Article

II: Claims 10-13 Process of Producing an Article

III: Claims 16-20 Apparatus for Molding Articles¹

Applicants confirm the telephonic election, with traverse, of Claims 16-20. Traverse is based on the following.

The claims of Groups I-II are said to be distinct because the static mixer could be produced by gluing or welding separate elements together, or by dissolving a mold. Applicants respectfully note that Claim 1 recites "an integral three-dimensional article." (emphasis added). An article made by gluing or welding separate elements together is not integral and falls outside the claims of Group I. Applicants respectfully note that MPEP 806.05(f) requires "that the product *as claimed* can be made by another and materially different process." (emphasis in the original). In this case, the product as claimed cannot be made by a different process. The Office Action also proposes that the claimed three-dimensional article can be made by using a mold which is later dissolved. Applicants respectfully submit that a dissolvable material allowing elongate members to terminate in a distal end, and yet be dissolvable, is neither feasible nor known. Accordingly, Applicants respectfully request the Restriction Requirement of Groups I-II be reconsidered and withdrawn.

Groups II-III are said to be related as a process and apparatus for its practice. The inventions are said to be distinct because the apparatus may be used to practice a different process such as reshaping of foam or rubber. Applicants respectfully note that if the foam or rubber is cured, it will not be reshaped by compressing in a mold. Instead, it will simply be temporarily deformed. This does not constitute a different process, but instead just an alternative use of the claimed apparatus. Applicants respectfully note MPEP 806.05(e) squarely places the "burden ... on the examiner to provide reasonable examples that recite material differences." In this case, Applicants respectfully submit the example is not reasonable. It is simply another use of the

¹ The Office Action states Restriction is required between three groups of claims reciting a "static mixer" article. Applicants respectfully note that the claims are drawn to three-dimensional articles generally, and not limited to the illustrated use of static mixers.

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apparatus for a hypothetical purpose. Furthermore, the difference is not material – having the solid member conform to the shape of the apparatus (just as a flowable liquid material would do). The Examiner is respectfully requested to reconsider and withdraw the election requirement of Groups II and III.

The inventions of Groups I and III are related as apparatus and product made. The groups are said to be distinct because the product can be made by another and materially different apparatus such as dissolving the apparatus. Applicants again respectfully submit that an apparatus which is dissolved is neither known nor believed to be feasible. Accordingly, Applicants respectfully request the Restriction Requirement of Groups I and III be withdrawn.

The title has been updated to reflect the elected claims, subject to the traversal set forth above. The disclosure has been updated at page 4 and grammatical corrections made to Claims 16 and 20. Claim 17 is rewritten in independent form.

Claim 16 is rejected under 35 USC §103(a) over Garneau, Sr. (4,218,038, Figs. 9-11). The Office Action states that Garneau, Sr. discloses mold segments which enclose a cavity therebetween and having spacer walls 33, 34. However, Garneau, Sr. does not open the mold cavities in a separation direction parallel to the spacer walls 33, 34. Instead, Garneau, Sr. opens the mold cavity in a direction perpendicular thereto, as is known in the art. See Fig. 9 (2:24, mold halves in a closed position) and Fig. 11 (2:29, mold halves in the open position). Garneau, Sr. specifically teaches a way from opening the mold halves in a direction parallel to the spacer walls 33, 34 by stating that the mold half 27 is moved away “in a direction exactly perpendicular to the face surfaces and parting line” (3:51-52). The purpose of moving the mold half in this direction is to relieve pressure on the teeth of the comb “so that it is a simple matter to actuate the knock-out pins...” (3:58-59).

One of skill reading Garneau, Sr. would not be led to open the molds in the claimed direction parallel to spacer walls 33, 34. Instead, one would be led to open the mold halves in the direction Garneau, Sr. explicitly teaches in order to achieve the benefits Garneau specifically calls out. Opening the mold halves as taught by Garneau, Sr. would not allow for molding of three-dimensional interstitial articles as required by the instant claims. Accordingly, Applicants respectfully submit that Claim 16, as amended hereunder for formal purposes, is not taught or suggested by Garneau, Sr.

Applicants respectfully note with appreciation the allowance of Claims 17-20 upon being rewritten in independent form. Claim 17 is amended hereunder to be in independent form.

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SUMMARY

The Examiner is respectfully requested to withdraw the Restriction Requirement, particularly the Restriction Requirement of Groups II-III. Applicants respectfully note that the claims of Group II require the limitation that molds be separated in a direction parallel to the members of the mold segment – which is the basis for patentability of the elected claims of Group III. Claim 16 and the claims which depend therefrom are neither taught nor suggested by the cited art. Claim 17 is believed to be allowable as rewritten.

Respectfully submitted,



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